

REMARKS

In response to the Office Action issued January 24, 2008, Applicant has amended independent claims 8, 11, 14, and 17. No new matter has been added. Claims 1-7 were previously canceled. Thus, claims 8-17 are pending and are in condition for allowance.

Claims 8-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,286,140 to Ivanyi ("Ivanyi") in view of U.S. Patent No. 6,530,082 to Del Sesto et al. ("Del Sesto") in view of U.S. Patent No. 6,438,752 to McClard ("McClard") and in further view of U.S. Patent No. 6,704,929 to Ozer et al. ("Ozer").

In response to the Applicant's previous arguments, the Examiner provides a definition for the term "segment". Specifically, the Examiner defines a segment as the "length of time of programming a viewer watches." (10/30/07 Advisory Action, page 2, ¶ 2). The Examiner adds to this definition that a segment "is also a shorter period of time than the entire program." (Id.). However, it is not clear where this definition was found. Moreover, this definition is inconsistent with the specification of the present application as well as any dictionary definitions.

The specification of the present application discusses that a program may be segmented into unit portions of time. (See, e.g., [0067] - [0068], [0081]). These unit portions of time may be based on, for example, the type of program or the content of the program. Nowhere is the unit portion described as being based upon the length of time a viewer watches the program.

Mirriam-Webster's online dictionary provides the following definition for segment:

1: a portion cut off from a geometric figure by one or more points, lines, or planes: as

a: the area of a circle bounded by a chord and an arc of that circle

b: the part of a sphere cut off by a plane or included between two parallel planes

c: the finite part of a line between two points in the line

2 a: a separate piece of something : bit, fragment <chop the stalks into short segments>

b: one of the constituent parts into which a body, entity, or quantity is divided or marked off by or as if by natural boundaries <all segments of the population agree>

(<http://www.merriam-webster.com/dictionary/segment>).

None of these definitions resemble the Examiner's proposed definition.

To avoid further confusion regarding what may be meant by "segment" of a program, Applicant has amended independent claims 8 and 11 to clarify that viewing and listening information includes viewer preferences for each unit portion of the program.

Ozer fails to disclose that viewing and listening information include viewer preferences for each unit portion of the program. As acknowledged by the Examiner, Ozer merely discloses computing information for the length of time of the programming watched by the viewer and the length of time of the programming not watched.

Accordingly, Applicant respectfully submits that claims 8 and 11 are patentable over Ivanyi, Del Sesto, McClard, and Ozer, taken either alone or in combination, and thus requests that the rejections of claims 8 and 11 be withdrawn.

Because claims 9-10 and 12-13 depend from claims 8 and 11, respectively, and thus include all the limitations of same, it is respectfully submitted that claims 9-10 and 12-13 are also patentable over the cited references.

Claims 14-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ivanyi in view of Del Sesto and Ozer.

Similar to claims 8 and 11, independent claims 14 and 17 has been amended to recite that the viewing and listening information is computed for each unit portion of the program. Thus, for at least the same reasons as discussed above in connection with claims 8 and 11, Applicant submits that claims 14 and 17 are patentable over Ivanyi, Del Sesto, and Ozer, taken alone or in combination. Further, because claims 15-16 depend from and include the limitations of claim 14, Applicant submits that these claims are also patentable over the cited references. Accordingly, Applicant respectfully requests that the rejection of claims 14-17 be withdrawn.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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